

# Disciplinary and Other FINRA Actions

## Firm Expelled, Individual Sanctioned

**Mission Securities Corporation (CRD #41779, San Diego California) and Craig Michael Biddick (CRD #2382884, Registered Principal, Rancho Santa Fe, California).** The firm was expelled from FINRA membership and Biddick was barred from association with any FINRA member in any capacity. The firm and Biddick were also ordered to pay, jointly and severally, \$38,946.06, plus interest, to customers. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm and Biddick converted and misused customer securities. The findings stated that the NAC found that the firm and Biddick intentionally caused the transfer, without any prior customer authorization or notification, of securities from customers' accounts to the firm's account, sold a portion of the shares and used some of the proceeds for the firm's operating expenses.

This decision has been appealed to the Securities and Exchange Commission (SEC) and the bar and expulsion are in effect pending consideration of the appeal. **(FINRA Case #2006003738501)**

## Firms Fined, Individual Sanctioned

**Register Financial Associates, Inc. (CRD #30568, Atlanta, Georgia) and George Robert Register (CRD #373031, Registered Principal, Roswell, Georgia)** submitted an Offer of Settlement in which the firm was fined \$50,000, and Register was fined \$15,000 and suspended from association with any FINRA member in any principal or supervisory capacity for 30 days. Without admitting or denying the allegations, the firm and Register consented to the described sanctions and to the entry of findings that the firm allowed an individual to function as a research analyst without having the required licenses. The findings stated that the firm shared a draft of a section of a research report that contained a research summary, rating and price target with a subject company before it was published, and the draft was not provided to legal or compliance personnel at the firm. The findings also stated that the firm did not monitor or place restrictions on the trading of stock picks by research analysts, who placed trades in violation of the limits placed on analysts by NASD® Rule 2711(g) and failed to retain records showing the dates that newsletters were published prior to 2005. The findings also included that the firm's research analysts failed to disclose their financial interests in stock picks and omitted material facts that rendered the stock pick section of research reports misleading.

## Reported for May 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

FINRA found that the firm failed to disclose the valuation methods it used to determine the price target and the risks to achieving the price target in the stock pick sections of its research reports. FINRA also found that the firm and Register filed false attestations regarding compliance with NASD Rule 2711, and the firm failed to make the certifications required by SEC Regulation AC for its stock pick sections that the views expressed accurately reflected the research analysts' personal views. FINRA also found that the firm failed to have a principal review, initial and date its published research reports before the earlier of its use or filing with FINRA's Advertising Regulation Department. In addition, FINRA determined that the firm failed to adopt and implement written supervisory procedures to cover research reports distributed to the public and ignored red flags regarding stock pick sections qualifying as research reports. Moreover, FINRA found that the firm failed to establish, maintain and enforce written supervisory procedures for its newsletter, in that the firm had no written supervisory procedures that governed research reports distributed to the public. Furthermore, FINRA found that Register failed to adequately discharge his supervisory responsibilities and never took effective action to ensure that his firm was meeting its obligation to comply with FINRA rules, in that he never monitored the trading or ownership of stock picks by the firm's research analysts, imposed no restrictions on whether the analysts could trade or own securities when they were profiled as stock picks, and allowed research analysts to publish research reports unsupervised.

Register's suspension was in effect from April 5, 2010, through May 4, 2010. (**FINRA Case #2007011496203**).

## Firms Fined

**A.B. Watley Direct, Inc. (CRD #18663, New York, New York)** submitted an Offer of Settlement in which the firm was censured, fined \$125,000 and required to retain an Independent Consultant to conduct a review of the adequacy of its policies, systems and procedures, and training relating to its anti-money laundering (AML) compliance program. The firm was required to have its general securities principals register for eight hours of AML training and provide FINRA with evidence of completion of training. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through its Compliance Officer and Anti-Money Laundering Compliance Officer, it failed to establish and enforce an adequate and reasonable AML program, in that it failed to detect and investigate red flags of possible suspicious activity in customer accounts and failed to timely report such activity. The findings stated that the firm, acting through the registered principal, failed to perform independent testing of the AML program during two years, performed an inadequate independent AML test in another year, and failed to establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and implementing regulations thereunder. The findings also stated that the firm, acting through individuals, conducted a securities business while it failed to maintain its minimum required net capital and, as a result of its net capital calculation errors, it filed inaccurate quarterly Financial Operational & Combined Uniform Single (FOCUS™) reports. The findings also included that the firm failed to preserve and maintain copies of all of its internal and external emails as required. (**FINRA Case #2005001121401**)

**Ancora Securities, Inc. (CRD #16076, Cleveland, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding trade report input. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade report input. **(FINRA Case #2008013998701)**

**Goldman, Sachs & Co. (CRD #361, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report transactions that required a .RO, .RA or .RX modifier to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) by 8 p.m. Eastern Time. The findings stated that the firm failed to report to the FNTRF the correct execution time for transactions in reportable securities to the FNTRF, and failed to report transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securities to TRACE within 15 minutes of the execution time. **(FINRA Case #2008013914301)**

**Goldman Sachs Execution & Clearing, L.P. (CRD #3466, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and ordered to pay \$261.65, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct sell code and share quantity to the Order Audit Trail System (OATS™) for numerous sell orders using a specific market participant identifier (MPID). The findings stated that, in transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to show the correct customer account number on brokerage order memoranda. **(FINRA Case #2007009691601)**

**Howe Barnes Hoefer & Arnett, Inc. (CRD #2240, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly submitted data to OATS. The findings stated that the firm failed to properly disclose all pertinent information to customers on customer confirmations, in that the firm failed to disclose commission equivalents or markups/markdowns, the correct capacity and/or the correct price. The findings also stated that the firm failed to properly report transactions in that it failed to properly report media trades, failed to correctly report riskless principal trades, failed to report a principal transaction, failed to report cancellations and failed to append a .W modifier. The findings also included that the firm's supervisory system did not provide

for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing order handling, best execution, other trading rules, OATS and other rules. FINRA also found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures regarding order handling, best execution, other trading rules, OATS and other rules. **(FINRA Case #2007011835601)**

**ING Financial Advisers, LLC (CRD #34815, Windsor, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system and written procedures were not reasonably designed to ensure timely amendment of Uniform Applications for Securities Industry Registration or Transfer (Forms U4) with respect to outside business activities. The findings stated that the firm failed to fully enforce the limited written procedures it had adopted for timely filing such amendments. **(FINRA Case #2009016769301)**

**Instinet, LLC (CRD #7897, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$18,000 and required to revise its written supervisory procedures regarding short sale indicator reporting, books and records retention requirements, use of multiple MPIDs and SEC Rule 301(b) relating to alternative trading systems (ATS). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that omitted special handling codes. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing short sale indicator reporting, books and records retention requirements, use of multiple MPIDs and SEC Rule 301(b) relating to ATS. **(FINRA Case #2007010747101)**

**Maxim Group LLC (CRD #120708, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$82,500, ordered to pay \$3,351.82, plus interest, in restitution to investors, and to revise its written supervisory procedures regarding trade reporting, OATS reporting, short sale reporting, best execution and backing away, and short sale reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported to the NASDAQ Market Center (NMC) riskless principal transactions in designated securities in a principal capacity, and incorrectly reported to the NMC and to the OTC™ Reporting Facility (OTCRF) the second leg of riskless principal transactions. The findings stated that the firm failed to report to the NMC the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity. The findings also stated that the firm transmitted execution reports to OATS that contained inaccurate, incomplete or improperly formatted data, and the firm executed short sale orders and failed to properly mark the orders as short. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or applicable SEC or FINRA rules addressing trade reporting, OATS reporting, short sale reporting, best execution and backing away.

FINRA also found that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. In addition, FINRA determined that, in transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. Moreover, FINRA found that the firm failed to fully and promptly execute orders. Furthermore, FINRA found that the firm bought or sold corporate bonds to and from customers, and failed to sell or buy the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each corporate bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. FINRA found that the firm failed to report to the OTCRF the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities; failed to report the contra side executing broker in reportable securities transactions to the NASD/NASDAQ Trade Reporting Facility (NNTRF); and failed to report to the NNTRF the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity, and improperly aggregated individual executions of OTC equity securities orders into one transaction report. (FINRA Case #2006004789101)

**Merriman Curhan Ford & Co. (CRD #18296, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and required to revise its written supervisory procedures regarding SEC Rules 611(a)(1), 611(a)(2) and 611(c) of Regulation NMS; the firm's supervisory system, procedures and qualifications; order handling; anti-intimidation/coordination; trade reporting; sales transactions; other trading rules; OATS; and recordkeeping. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTCRF, and failed to designate some of the last sale reports as late. The findings also stated that the firm failed to report to the FNTRF or the OTCRF the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rules 611(a)(1), 611(a)(2) and 611(c) of Regulation NMS.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing the firm's supervisory system, procedures and qualifications; order handling; anti-intimidation/coordination; trade reporting; sales

transactions; other trading rules; OATS; and recordkeeping. FINRA also found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning order handling, best execution, trade reporting and sales transactions. **(FINRA Case #2006006380002)**

**PFS Investments, Inc. (CRD #10111, Duluth, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$35,000 and required to retain copies of customer receipts that it provided to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to retain copies of a completed pre-printed form receipt contained in its standard account application packet. The findings stated that the firm was required to retain each completed receipt, regardless of whether the information was included elsewhere on its standard account application, because once it was customized and given to firm customers, it became a “communication” for purposes of SEC Rule 17a-4(b)(4). **(FINRA Case #2008015413101)**

**Roth Capital Partners, LLC (CRD #15407, Newport Beach, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly mark short sale orders as short and transmitted reports to OATS that omitted desk timestamps, contained inaccurate timestamps and/or incorrectly included a received method code of “E.” The findings stated that the firm failed to maintain complete and accurate brokerage order memoranda. The findings also stated that the firm incorrectly denoted short sales as long, failed to show that orders were “not held,” failed to show the execution times and indicate whether orders were “held” or “not held,” and failed to show accurate order receipt times. The findings also included that the firm, during one calendar quarter, failed to make a complete and accurate report on its routing of non-directed orders in covered securities available during that quarter. **(FINRA Case #2008013374602)**

**Saratoga Capital Markets (CRD #120888, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit to the FNTRF either a clearing-only report with a capacity indicator of “riskless principal” or a non-tape, non-clearing report with a capacity indicator of “riskless principal” for the offsetting, “riskless” portion of “riskless” principal transactions in designated securities. The findings stated that the firm failed to report the correct execution time for transactions in reportable securities to the FNTRF. **(FINRA Case #2008015259801)**

**Searle & Co. (CRD #13035, Greenwich, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its Reportable Order Events (ROEs) to OATS that it was required to report on numerous business days. The findings stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2008013161501)**



**Southwest Securities, Inc. (CRD #6220, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported last sale reports of transactions in OTC equity securities to the OTCRF that it was not required to report. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting for transactions executed and reported by way of a give-up agreement. **(FINRA Case #2008014171101)**

**Stoeveer, Glass & Company Inc. (CRD #7031, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of Time of Trade. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning timely reporting of municipal securities transactions. **(FINRA Case #2009018128401)**

**Trubee, Collins & Co., Inc. (CRD #3618, Buffalo, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities that it was required to report to TRACE within 15 minutes of time of trade; failed to record the correct trade time for transactions, which resulted in a failure to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE and on brokerage order memoranda. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting. **(FINRA Case #2008012761001)**

**vFinance Investments, Inc. (CRD #44962, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the reports were marked with a Limit Order Display Indicator of "Y," indicating that the firm received instructions from the customer that a block size limit order should be displayed, when in fact no such instruction was received; reports omitted Desk (DS) information on New Order (NW) reports; reports omitted Desk (DS) information on New Order (NW) reports and the firm submitted erroneous Route (RT) reports; and a report contained inaccurate Account Type Codes. **(FINRA Case #2009017002501)**

**Wedbush Morgan Securities Inc. (CRD #877, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent which the firm was censured and fined \$12,500. The firm has made restitution totaling \$5,986.26 to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold municipal securities for its own account to customers at an

aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. **(FINRA Case #2008014737701)**

## Individuals Barred or Suspended

**Martin David Batstone (CRD #2171601, Registered Representative, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Batstone consented to the described sanctions and to the entry of findings that he participated in the sale by another registered representative to Batstone's customers at the firm, of equity-indexed annuities issued by companies with which Batstone was not an appointed agent. The findings stated that the customers were not aware that the firm did not have selling agreements with the issuing companies and did not approve its representatives' sale of the subject products, or that the registered representative was acting as the authorized agent of record. The findings also stated that Batstone participated in the sales by discussing general features and benefits of the equity-indexed annuities, facilitating the transactions, and by either introducing the customers to the representative or providing their contact and financial information to the representative to complete the transactions.

The suspension was in effect from April 5, 2010, through April 16, 2010. **(FINRA Case #2007007981001)**

**Roslyn E. Bixby (CRD #1176721, Registered Representative, Seal Beach, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Bixby consented to the described sanctions and to the entry of findings that, shortly before resigning from her member firm to work at another member firm, Bixby caused customer records to be altered without authorization. The findings stated that Bixby made inaccurate updates to customer telephone numbers and deleted customer email addresses in order to slow down other registered representatives whom she believed would be assigned to call her customers after she resigned. The findings stated that by changing customer telephone numbers and email addresses, Bixby caused her firm to create and maintain inaccurate books and records.

The suspension was in effect from April 5, 2010, through May 4, 2010. **(FINRA Case #2009016572701)**



**William Frederick Brahe Jr. (CRD #3195240, Registered Representative, East Meadow, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that, without permission or authority, Brahe withdrew approximately \$1,078,400 from customers' accounts and deposited the money into his own accounts for his own use and benefit. **(FINRA Case #2008014231001)**

**Daniel Glenn Carlen (CRD #2199946, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Carlen consented to the described sanction and to the entry of findings that he was associated with a member firm and was also employed as a supervisor of payroll for a non-registered third-party administration company related to the firm. The findings stated that Carlen systematically directed unauthorized payments from the administration company's payroll to a business entity under his sole control and converted the funds to his personal use. The findings stated that when Carlen was confronted with actual falsified checks and tampered bank statements, he signed a written statement in which he confessed to embezzling \$235,000 and misappropriating the funds for his personal use. **(FINRA Case #2009016529101)**

**Daniel Edward Chrusciel (CRD #3115405, Registered Representative, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Chrusciel consented to the described sanction and to the entry of findings that he processed options trades in his member firm's average price account that its clearing firm then executed, but credited customers with inferior prices to the actual street execution price. The findings stated that Chrusciel created fictitious transactions to journal a portion of the difference between the street price and the inferior price booked to client accounts from the average price account to personal accounts he held at the firm, thereby depriving customers of best execution for their securities transactions. The findings also stated that by using fictitious transactions, Chrusciel misappropriated from the firm's average price account to his personal accounts \$1,305 of the total \$2,280 that represented the difference between the prices booked to the customer accounts and the street price to which the customers were entitled, thereby converting the \$1,305. The findings also included that Chrusciel used his firm's inventory accounts to place trades that were ultimately allocated to his personal accounts and accounts his relatives held by creating fictitious trades as a means to move the gains he obtained by trading in the inventory accounts to his personal accounts his relatives held. The findings further included that Chrusciel used the firm's inventory accounts rather than his personal accounts because he lacked the buying power in his personal accounts to place the trades.

FINRA found that the firm verbally warned Chrusciel that he was not permitted to use inventory accounts for personal trading and distributed a written memorandum to all employees telling them that this practice was prohibited, but Chrusciel ignored the warning and, to avoid detection, stopped using his own accounts and began allocating trades to accounts his relatives held. FINRA also found that Chrusciel's firm warned him in writing to stop using firm inventory accounts for personal trading or he would be terminated. In addition, FINRA determined that Chrusciel effected transactions in his relatives' accounts to move profits generated by day trading in the firm's accounts to

his family members' accounts without his family members' prior written authorization to exercise discretion. Moreover, FINRA found that after effecting trades in the firm account and moving the proceeds to family members' accounts, Chrusciel forged relatives' signatures on wire transfer forms to move the funds he obtained to bank accounts in which he had an interest. Furthermore, FINRA found that Chrusciel caused his firm to maintain inaccurate books and records by creating fictitious trades in the firm's inventory accounts to journal proceeds from day-trading activities and from the customer trades books at prices inferior to the prices executed with the street and by forging signatures on wire transfer forms. **(FINRA Case #2009020780101)**

**David Bigelow Crocker (CRD #1927739, Registered Representative, Santa Fe, New Mexico)** submitted an Offer of Settlement in which he was censured, fined \$10,000, which includes the disgorgement of \$3,500 in financial benefits he received, and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the allegations, Crocker consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation and failed to provide prompt written notice to his member firm, but eventually notified his supervisor of the transactions a number of years later. The findings stated that Crocker participated in referring a customer to another firm's registered representative for the purpose of purchasing equity-indexed annuities and received compensation for the transactions.

The suspension was in effect from March 15, 2010, through April 12, 2010. **(FINRA Case #2007011151502)**

**Darrell Steven Current (CRD #1375058, Registered Representative, Louisville, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Current consented to the described sanctions and to the entry of findings that, while contemplating his resignation from his member firm to work at another member firm, Current altered customer telephone records at his member firm without authorization. The findings stated that Current made inaccurate electronic changes to customer telephone records that were recorded on a firm electronic database in order to slow down other registered representatives who he believed would be assigned to call his customers after he resigned. The findings also stated that by changing customer telephone numbers, Current caused his member firm to create and maintain inaccurate books and records.

The suspension is in effect from April 19, 2010, through May 18, 2010. **(FINRA Case #2008012421501)**

**Jose Cecilio DeCastro (CRD #3121570, Registered Representative, Caracas, Venezuela)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon DeCastro's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, DeCastro consented to the described sanctions and to the entry of findings that he effected electronic wire transfers from a customer

account upon a third party's verbal instructions and based upon receipt of written instructions that he received by facsimile, which were purportedly from the account's beneficial owner. The findings stated that DeCastro never asked the third party for written authorization confirming his authority to issue instructions on the customer's behalf or obtained the customer's actual authorization.

The suspension is in effect from April 5, 2010, through April 4, 2011. **(FINRA Case #2008013962101)**

**Alexander Dobric (CRD #2684726, Registered Representative, Davie, Florida)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Dobric's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Dobric consented to the described sanctions and to the entry of findings that he day-traded futures contracts in his personal futures account with his member firm when, for the day-trading he effected, he needed to have approximately \$3,200 in his account in order to meet his member firm's internal day-trading margin requirements. The findings stated that Dobric, without authorization, made false entries in the firm's computer system, manually increased his account balance, and placed trades for his own account that he otherwise would not have been able to make, causing the firm's books and records to be false and inaccurate.

The suspension is in effect from April 5, 2010, through April 4, 2011. **(FINRA Case #2009016953101)**

**Barry Michael Donald (CRD #2534882, Registered Representative, Morton, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Donald's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Donald consented to the described sanctions and to the entry of findings that he made unsuitable Unit Investment Trust (UIT) recommendations to a customer given the customer's risk tolerance level and the overly concentrated nature of the recommended investments, negligently misrepresented material facts regarding UIT sales charges and estimated yields, and failed to reasonably ensure that a customer understood the products and risks of UITs before buying them.

The suspension was in effect from March 15, 2010, through April 12, 2010. **(FINRA Case #2008015078601)**

**Steven Vincent Donato (CRD #5249506, Registered Representative, Cherry Hill, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Donato consented to the described sanction and to the entry of findings that he distributed the answer key to a state long-term care continuing education exam, and provided part of his social security number to an individual so

that the individual could satisfy a continuing education exam online requirement of having someone proctor the exam, even though Donato was not present when the individual signed on to take the exam. The findings stated that Donato failed to respond to a FINRA request to provide testimony. **(FINRA Case #2009021029601)**

**Rob William Friemoth Jr. (CRD #4218424, Registered Representative, Waterville, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Friemoth consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to give his member firm prompt written notice. The findings stated that Friemoth sold equity-indexed annuities on an insurance company's behalf after his firm had discovered that he had sold an equity-indexed annuity that was not on the firm's approved list and after it had requested that he not proceed with any additional such sales.

The suspension is in effect from April 5, 2010, through June 4, 2010. **(FINRA Case #2007010328201)**

**Dedric Hillery Gill III (CRD #1935821, Registered Representative, Omaha, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gill consented to the described sanction and to the entry of findings that he engaged in private securities transactions by referring public customers to invest \$266,600 in privately held companies without prior written notice to his member firm. The findings stated that Gill borrowed from and loaned firm customers a total of \$115,000 contrary to his firm's procedures prohibiting its registered persons from lending money to, or borrowing money from, its customers. The findings also stated that Gill failed to respond to a FINRA request for documents and to appear for an on-the-record interview. **(FINRA Case #2009017234001)**

**Henry Thomas Goode II (CRD #3272392, Registered Representative, Melbourne, Florida)** submitted a Letter of Acceptance Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Goode's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Goode consented to the described sanctions and to the entry of findings that he failed to execute a customer's instructions to liquidate positions in the customer's account, and the value of securities in the account declined precipitously with the customer incurring losses exceeding more than \$1 million dollars.

The suspension is in effect from April 5, 2010, through June 3, 2010. **(FINRA Case #2008015747801)**

**Jason Allen Groth (CRD #2933258, Registered Representative, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Groth consented to the described sanctions

and to the entry of findings that he sold equity-indexed annuities, with a face-value of \$4,800,000, issued by carriers that were not approved by the firm for sales by its registered representatives, and earned approximately \$524,142 in connection with the sales. The findings stated that this compensation was outside the scope of Groth's relationship with the firm, and he accepted it without providing prompt written notice to the firm in a form the firm required. The findings also stated that Groth completed firm documentation requesting information concerning any outside business activity and did not disclose that he was selling annuities issued by carriers that did not have selling agreements with the firm.

The suspension is in effect from April 5, 2010, through July 3, 2010. **(FINRA Case #2007007981002)**

**Charles Mark Hall (CRD #2089178, Registered Principal, Smithfield, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hall consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents. **(FINRA Case #2009019368601)**

**Mark Francis Harper (CRD #4148035, Registered Representative, Stow, Ohio)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Harper engaged in a pattern of mutual fund switching in customers' accounts without having reasonable grounds for believing that the transactions were suitable for the customers. The findings stated that Harper placed buy and sell orders of mutual funds in customers' accounts without the customers' prior written authorization and his member firm's prior written acceptance of the accounts as discretionary. The findings also stated that Harper failed to timely amend his Form U4 to disclose a settlement with a customer for \$23,041.02 in connection with his mutual fund switching. **(FINRA Case #2007011333401)**

**Scott Allan Henry (CRD #2302642, Associated Person, San Antonio, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Henry willfully failed to disclose material information on his Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2008013969501)**

**William Edward Herlihy (CRD #4005879, Registered Principal, Deltona, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$30,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Herlihy's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Herlihy consented to the described sanctions and to the entry of findings that he participated in the sale of unregistered securities by a control person of the issuer. The findings stated that Herlihy ignored red flags and failed to conduct an adequate inquiry and follow-up on suspicious trading activity by customers who engaged in numerous pre-arranged cross and wash transactions for purposes of manipulating a company's stock.

The suspension is in effect from April 5, 2010, through July 3, 2010. **(FINRA Case #2008013490901)**

**Trent Tremayne Hughes (CRD #3226348, Registered Representative, Dallas, Texas)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine is due and payable when Hughes returns to the securities industry. The sanctions were based on findings that Hughes falsified cash distribution forms totaling \$212,752 to accommodate customers. The findings stated that without his member firm's knowledge or consent but with the customers' consent, Hughes falsified the forms by reusing original signature pages from previously submitted forms, altered the dates on the forms, attached the altered signature pages to new cash distribution forms and then submitted the falsified forms to his firm for processing in violation of firm policy.

The suspension is in effect from March 15, 2010, through June 14, 2010. **(FINRA Case #2008013391701)**

**Mahesh Pravin Jhala (CRD #1120916, Registered Representative, Mayfield Village, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Jhala consented to the described sanction and to the entry of findings that he privately charged a customer who maintained multiple family securities accounts at his member firms a total of approximately \$58,690 for his services as a registered representative, in addition to commissions and other compensation he received through his firms for services provided to the customer. The findings stated that Jhala provided no additional services to the customer that justified the additional fees and concealed the private charges from his firms. **(FINRA Case #2010021869201)**

**Reed Theodore Johnson (CRD #1833316, Registered Principal, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the findings, Johnson consented to the described sanctions and to the entry of findings that he was the registered principal at his member firm responsible for reviewing and approving transactions a registered representative effected. The findings stated that the registered representative recommended and effected unsuitable purchases in customers' accounts and Johnson failed to exercise reasonable supervision over the registered representative by approving the unsuitable purchases.

The suspension was in effect from April 19, 2010, through April 30, 2010. **(FINRA Case #2007011436901)**

**Gerald Jamieson Kesner (CRD #2337113, Registered Representative, Lakewood, Colorado)** was barred from association with any FINRA member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Kesner failed to disclose material information to investors regarding the acquisition of securities and membership interests in a company. The findings stated that Kesner made unsuitable recommendations to two customers based on the customers' risk tolerance. **(FINRA Case #2005001729501)**



**Natasha Michelle Kuykendall (CRD #5371254, Associated Person, Valley View, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Kuykendall's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kuykendall consented to the described sanctions and to the entry of findings that she signed or photocopied customer signatures onto account documents and submitted the documents to her member firm for processing without the customers' authorization, knowledge or consent. The findings stated that Kuykendall copied a customer's signature onto a form and then notarized the document herself. The findings also stated that Kuykendall's conduct caused the firm's books and records to be inaccurate.

The suspension is in effect from March 15, 2010, through June 14, 2010. **(FINRA Case #2008013065301)**

**Douglas Seth Land (CRD #4872625, Registered Representative, Edgewater, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Land consented to the described sanctions and to the entry of findings that, shortly before resigning from his member firm to work at another member firm, Land caused telephone records at his firm to be altered without authorization, in that Land made inaccurate changes to customer telephone records electronically stored in his broker workstation in order to slow down other registered representatives who would be assigned to call his customers after he resigned. The findings stated that by changing customer telephone numbers, Land caused his member firm's books and records to be inaccurate.

The suspension was in effect from April 5, 2010, through May 4, 2010. **(FINRA Case #2008014999101)**

**Kyle Patrick MacDonald (CRD #4674276, Registered Representative, Falmouth, Maine)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, MacDonald consented to the described sanction and to the entry of findings that he converted \$1,100 in customers' financial planning fees due and owing to his member firm by instructing customers to make their checks payable to him personally. The findings stated that MacDonald, without permission or authority, wrongfully cashed the checks and used the funds for his own uses and purposes. **(FINRA Case #2009018375901)**

**Pauline Sepeda Martinez (CRD #5147648, Associated Person, Andrews, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Martinez consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information and documents. **(FINRA Case #2009020269601)**

**Harold Sheldon Minsky (CRD #336507, Registered Representative, Northridge, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Minsky consented to the described sanctions and to the entry of findings that he sold, on an unsolicited basis, unregistered stock that was not exempt from registration on a customer's behalf. The findings stated that the sales netted the customer approximately \$6 million, which he wired to off-shore accounts. The findings also stated that Minsky failed to conduct a reasonable inquiry or due diligence to determine, among other things, if the shares being sold were in fact exempt from registration.

The suspension is in effect from April 19, 2010, through May 18, 2010. **(FINRA Case #2007010287101)**

**Charles James Moni (CRD #822557, Registered Representative, Princeton, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$39,013, which includes disgorgement of \$29,013 representing commissions received, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Moni's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Moni consented to the described sanctions and to the entry of findings that he recommended and executed an unsuitable investment strategy in an elderly beneficiary's trust account that significantly increased the level of volatility in the account, amplified the risk of loss and increased costs.

The suspension is in effect from April 19, 2010, through October 18, 2010. **(FINRA Case #2008016120601)**

**Bradford Alan Orosey (CRD #727162, Registered Representative, Houston, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Orosey willfully failed to disclose material information on his Form U4. **(FINRA Case #2008013087201)**

**Ariel Pena (CRD #5439179, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Pena's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pena consented to the described sanctions and to the entry of findings that he knowingly submitted false documentation to his member firm's affiliate bank in order to open customer accounts, thereby circumventing the bank's requirement that its customers provide written verification of residential address. The findings stated that the customers were non-U.S. citizens and, without written verification of address, the bank would not have opened accounts for these customers. The findings also stated that Pena's tax accountant, who he had a referral relationship with, created false address verification letters for the customers on her company's letterhead upon Pena's request, and provided the letters to Pena, who used

these letters to open bank accounts for the customers and received at least \$800 in commissions. The findings also included that Pena was responsible for ensuring that accurate documentation was presented to his employer and intentionally presented the false address verification letters to his employer in an attempt to avoid supervisory guidelines.

The suspension is in effect from April 5, 2010, through October 4, 2010. **(FINRA Case #2009018511001)**

**Samuel Madigan Pierce (CRD #5370122, Associated Person, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pierce consented to the described sanction and to the entry of findings that he conspired with others to steal \$16,000 from a casino. The findings stated that Pierce engaged in a scheme with a blackjack dealer to cheat at a game of blackjack by, among other methods, being allowed to keep chips on what should have been losing hands. **(FINRA Case #2008015405101)**

**Alvin Charles Ramsey (CRD #2583105, Registered Representative, Martinez, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ramsey consented to the described sanction and to the entry of findings that he served as a registered representative for an elderly customer who executed a power of attorney, giving Ramsey broad authority over her financial affairs. The findings stated that the customer asked Ramsey to invest \$600,000 in a variable annuity, and then, without the customer's knowledge or authorization, Ramsey used the power of attorney to obtain approximately \$482,000 in withdrawals from the annuity, which, after taxes were deducted, totaled approximately \$373,750. The findings also stated that checks for \$373,750 were issued in the customer's name and sent to Ramsey's office. The findings also included that Ramsey deposited some of the money into the customer's checking account, but converted some of the funds for his personal use without the customer's knowledge or authorization. FINRA found that separately, Ramsey borrowed \$275,000 from the customer and, in total, owes the customer approximately \$500,000. FINRA also found that Ramsey failed to appear to provide testimony. **(FINRA Case #2008015421501)**

**Drumond Ricardo Roby (CRD #4078255, Registered Representative, Ferndale, Michigan)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Roby misused funds belonging to customers whose accounts were inactive by changing the names and addresses on the accounts, without the customers' knowledge or approval, and issued \$17,900 in checks from the accounts to himself at his address, endorsed the checks and received the funds. The findings stated that Roby failed to respond to FINRA requests for information. **(FINRA Case #2007010784301)**

**Andrew Mark Ruby (CRD #2976182, Registered Representative, Hartsdale, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ruby consented to the described sanction and to the entry of findings that,

from about February 2005 through March 2009, he stole blank personal checks and stock certificates from customers and forged their signatures. The findings stated that Ruby filled in the blank checks, inserting dollar amounts that totaled approximately \$128,275, forged the customers' signatures and then deposited the checks into an account under his control. The findings also stated that Ruby sold the stock certificates and kept the proceeds. The findings further stated that Ruby used the funds from the checks and stock certificates for personal expenses. **(FINRA Case #2009017832001)**

**Michael John Rukujzo (CRD #1386173, Registered Principal, Plainfield, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any principal capacity. In light of Rukujzo's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Rukujzo consented to the described sanction and to the entry of findings that he participated in the negotiation and consummation of an Asset Purchase Agreement transaction, involving another FINRA member, a non broker-dealer entity and an entity which was a customer of his member firm. The findings stated that the transaction resulted in the transfer, from the other FINRA member, of multiple customer mutual fund positions for which Rukujzo's firm had become the dealer of record to the dominion and control of his firm's customer (the entity), which exposed customers' accounts to losses as a result of the entity's speculative margin trading. The findings also stated that Rukujzo's firm facilitated the transfer of certain positions held directly at mutual fund companies to an omnibus margin account held and maintained at the firm's clearing firm in the name of the entity, for which the firm was the broker-dealer of record. The findings also included that the firm advised its clearing firm that the customers had authorized the use of their mutual fund assets as collateral when in fact, the customers did not sign any margin authorization forms, and information sent to the customers did not mention a margin account, the use of margin in investment strategies, or the use of the customer's assets as collateral to support margin trading in the omnibus account. The findings further stated that Rukujzo allowed an unregistered person to function as a representative and the firm's principal without being registered.

FINRA found that under Rukujzo's direction and control, his firm engaged in the change of dealer of record designation without the customer's authorization, and allowed his firm to participate in a transaction that he knew, or should have known, required approval from FINRA, and that approval was neither requested nor obtained. **(FINRA Case #2007009609202)**

**Mike James Scherschel (CRD #2886189, Registered Representative, Milwaukie, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Scherschel consented to the described sanction and to the entry of findings that he failed to provide information requested by FINRA. **(FINRA Case #2008012450002)**

**M. B. Schreiber (CRD #1032600, Registered Principal, Holmdel, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Schreiber consented to the described

sanctions and to the entry of findings that he borrowed \$100,000 from a customer in violation of his member firm's procedures and did not inform his firm of the loan, which was repaid.

The suspension is in effect from April 5, 2010, to June 3, 2010. **(FINRA Case #2007010982301)**

**Richard Albert Seefried (CRD #1062447, Registered Principal, Spokane, Washington)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for three months. In light of Seefried's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Seefried consented to the described sanction and to the entry of findings that he exercised discretion in a customer's account without the customer's prior written authorization or his member firm's acceptance of the account as discretionary. The findings stated that Seefried knowingly provided false information to the firm when he completed Registered Representative Compliance Summaries and did not provide affirmative answers regarding exercising discretion, causing the firm's books and records to become inaccurate. The findings also stated that Seefried knew that a customer's signature on a New Issue Certification was not genuine, but he submitted it, or caused it to be submitted, to the firm so that the customer could purchase securities in an initial public offering, where it became part of the firm's books and records; thereby falsifying the firm's records. The findings also included that Seefried recommended and effected transactions in a customer's account without having reasonable grounds for believing that the transactions were suitable based upon the facts the customer disclosed as to her other security holdings, financial situation and needs.

The suspension is in effect from April 19, 2010, through July 18, 2010. **(FINRA Case #2007008443101)**

**Christopher William Shanahan (CRD #2973891, Registered Representative, Westlake, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Shanahan consented to the described sanction and to the entry of findings that he misappropriated more than \$30,000 from his member firm. The findings stated that Shanahan was issued a corporate credit card to pay for his business travel and other business-related expenses and, while use of the corporate credit card for personal expenses was prohibited by his member firm, Shanahan sought and received reimbursements for more than \$30,000 of personal expenses to which he was not entitled. The findings also stated that Shanahan submitted falsified expense reimbursement reports, causing his firm's books and records to be inaccurate. **(FINRA Case #2008014404801)**

**Jeffrey Alan Smiley Sr. (CRD #4644722, Registered Representative, Brownsboro, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Smiley consented to the described sanction and to the entry of findings that he misappropriated funds from his member firm's insurance affiliate by depositing and applying current customer property and casualty insurance premium payments to past

deposits from other policies and commingling some of the premium payments with his personal funds. The findings also stated that Smiley admitted to commingling deposits with his personal funds after his firm confronted him regarding the missing deposits. (FINRA Case #2009017891101)

**Jerome Joseph Stellick (CRD #2665378, Registered Representative, Bonney Lake, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stellick consented to the described sanction and to the entry of findings that he completed an online application to open a brokerage account for a customer at a FINRA member firm with which he was not associated and completed the application by obtaining the customer's signature on a separate page and submitting it to the executing member firm. The findings stated that Stellick effected options transactions in the customer's account at the executing member firm, but in light of the customer's stated risk tolerance, Stellick did not have reasonable grounds for believing that the transactions were either qualitatively or quantitatively suitable for the customer. The findings also stated that Stellick exercised discretion with respect to the options transactions effected in the customer's account and never received written authorization from the customer, nor did he receive the executing member firm's written approval. The findings also included that Stellick never notified his member firm, either orally or in writing, about the account he opened for the customer, or about any transactions he effected in that account. FINRA found that Stellick never informed the executing member firm about his control over the customer's account and his status as an associated person of his firm. FINRA also found that Stellick borrowed \$326,000 from his customers in violation of the written procedures of the firms with which he was associated. (FINRA Case #2008012196501)

**Maria-Ysabelle Marinas Tiongson (CRD #4641219, Registered Representative, Bayonne, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Tiongson consented to the described sanction and to the entry of findings that she misappropriated \$4,000 from an individual, who gave her the funds to trade in a commodities futures trading account that she held away from, and was approved by, her member firm which she had subsequently closed. The findings stated that Tiongson never used the individual's funds to trade commodities futures, but instead used the funds for her personal benefit without the individual's knowledge or consent. The findings also stated that Tiongson made full restitution to the customer. (FINRA Case #2009018202201)

**Daniel Walsh (CRD #5333714, Registered Representative, Niantic, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Walsh consented to the described sanctions and to the entry of findings that he took an online state continuing education (CE) examination for financial advisors working for another FINRA member firm. The findings stated that the financial advisors provided their driver's license and social security numbers to Walsh, who used the information to log onto the examination Web site and take the exam for them. The findings also stated that Walsh assisted other financial advisors to take the CE examination by sitting with them in their offices



and providing assistance to complete the examination. The findings also included that Walsh possessed and distributed an answer key to a financial advisor and permitted the answer key to be distributed to other financial advisors. FINRA found that Walsh did not report his conduct to his member firm.

The suspension is in effect from April 5, 2010, through July 3, 2010. **(FINRA Case #2009021029602)**

**James Cordell Wisdom III (CRD #5441607, Registered Representative, Norwood, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Wisdom consented to the described sanction and to the entry of findings that he executed an unauthorized sale of shares of a mutual fund in a customer's account without the customer's knowledge or authorization. The findings stated that Wisdom wired the sale proceeds totaling approximately \$2,262 and an additional \$538 from the customer's account into a bank account he established in the customer's name without the customer's knowledge or authorization. The findings also stated that when Wisdom established the account, he listed himself as the signatory on the account and subsequently withdrew \$2,800 from the bank account and used it for his personal use. **(FINRA Case #2009018092701)**

## Individual Fined

**Richard Alan Englander (CRD #1082401, Registered Representative, Scarsdale, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$15,000. Without admitting or denying the findings, Englander consented to the described sanctions and to the entry of findings that he engaged in proprietary firm options trading when he was not properly licensed to do so. The findings stated that Englander engaged in his member firm's investment banking or securities business and failed to register in the registration category that was appropriate to the function to be performed as specified in NASD Rule 1032. **(FINRA Case #2007008882401)**

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of March 31, 2010. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues.

**Harrison A. Hatzis (CRD #2640978, Registered Principal, Hallandale, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hatzis provided inaccurate, incomplete and misleading information to FINRA during the membership application process about his member firm's financial arrangements and funding. The findings stated that the information was misleading regarding a \$250,000 payment to his firm, in that Hatzis engaged in a strategy to withhold information regarding a "commission recapture" arrangement that provided that, in exchange for the \$250,000, Hatzis' firm would forego \$285,000 in commissions

that would otherwise be due to the other firm. The findings also stated that Hatzis represented to FINRA staff that he provided a \$10,000 capital contribution to his firm that constituted the firm's initial funding and total assets reported on the firm's initial net capital computation, but later admitted that the \$10,000 had come from a friend. The findings also included that Hatzis falsely responded to the question on the Application for Broker-Dealer Registration (Form BD) regarding any person financing the business of the firm.

This decision has been appealed to the NAC. The sanction is not in effect pending consideration of the review. **(FINRA Case #2006005178801)**

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

**Artha Lee Brooks (CRD #4528122, Registered Principal, Ocean Springs, Mississippi)** was named as a respondent in a FINRA complaint alleging that he accepted \$5,000 in cash from a customer to be invested in money market mutual funds, but failed to invest the money on the customer's behalf. The complaint alleges that Brooks accepted the cash in violation of his member firm's policies and procedures prohibiting registered representatives from accepting cash from customers, gave the customer a dated and signed receipt for the \$5,000, failed to advise his member firm that he had received \$5,000 from a customer and failed to invest the funds on the customer's behalf. The complaint also alleges that Brooks failed to respond to FINRA requests for information. **(FINRA Case #2008015413102)**

**David Lerner Associates, Inc. (CRD #5397, Syosset, New York) and William Mason (CRD #1093049, Registered Principal, Merrick, New York)** were named as respondents in a FINRA complaint alleging that they charged excessive markups on municipal bond transactions and collateralized mortgage obligation (CMO) securities transactions that caused customers to purchase them at prices that were not fair or reasonable. The complaint alleges that the firm and Mason failed to establish and maintain adequate procedures to monitor the fairness of pricing for municipal bonds and CMOs. The complaint also alleges that the firm failed to establish and maintain adequate procedures to ensure that it recorded the time that the municipal bond orders were received from customers. The complaint further alleges that the firm failed to record the order receipt time of municipal order tickets. **(FINRA Case #2005000742701)**

**Traci Renae Faulks (CRD #5142663, Registered Representative, Lucasville, Ohio)** was named as a respondent in a FINRA complaint alleging that she misappropriated from her member firm \$9,613.84 in customer insurance premium payments made by the firm's customers. The complaint alleges that Faulks commingled her personal cash with cash premium payments made at her sales office and used the cash premium payments for personal use. The complaint alleges that she then replaced the cash premium payments used for her personal use with cash premium payments made at a later date. The complaint also alleges that after her termination, there was a shortage of \$9,613.84 in the amount deposited for customer insurance premiums, which premiums the customers were credited for. The complaint further alleges that Faulks failed to respond to FINRA requests for information and to appear for on-the-record testimony. **(FINRA Case #2008012897501)**

**Thomas Weisel Partners LLC (CRD #46237, San Francisco, California) and Stephen Henry Brinck Jr. (CRD #2674123, Registered Supervisor, San Rafael, California)** were named as respondents in a FINRA complaint alleging that the firm and Brinck, the then head of the fixed income desk, sold approximately \$15.7 million of auction rate securities from the firm's parent company account to customers' accounts to obtain cash to pay corporate bonuses. The complaint alleges that the firm failed as required by law to obtain prior permission in writing for the sales, which were from a principal account to managed accounts, and none of the customers had authorized or even knew about the transactions, and they occurred only days after the firm and Brinck had told the customers that the firm was *selling* all ARS in their accounts and in all other corporate cash customers' accounts because of concerns about ARS. The complaint also alleges that the sales were directly contrary to explicit instructions from customers to sell their ARS positions. The complaint further alleges that neither Brinck nor anyone else from the firm ever spoke to any of the customers about the transactions or disclosed that the sales were being made to them from the firm's parent company's account. In addition, the complaint alleges that after stuffing ARS in customers' accounts, the firm made false and misleading statements to the customers about the transactions in an attempt to induce them to forfeit their rights to pursue redress against the firm. Moreover, the complaint alleges that the firm provided false, misleading and unfounded information to customers, and when it provided that information, it knew or recklessly disregarded that the information was false, misleading and unfounded; the actions were part of a scheme to defraud and mislead the customers. Further, the complaint alleges that the firm made false statements to FINRA in response to a request for information. In addition, the complaint alleges that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, and failed to establish and maintain systems and procedures governing principal transactions effected by the firm, including transactions for its parent company's account that occurred with accounts over which the firm exercised discretion. Furthermore, the complaint alleges that the firm failed to provide for any meaningful review of potential conflicts of interest, whether customers had been informed that they were purchasing or selling securities to or from a principal account, or whether customers had authorized the transactions. **(FINRA Case #2008014621701)**

**Firm Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

**Bentley-Lawrence Securities, Inc.**  
Troy, Michigan  
(March 24, 2010)

**Firm Expelled for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

**Global Crown Capital, LLC**  
San Francisco, California  
(March 16, 2010)

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Emerald Investments, Inc.**  
New York, New York  
(March 15, 2010)

**Newpoint Securities, LLC**  
Beverly Hills, California  
(March 23, 2010)

**Segrave, Turlough William**  
New York, New York  
(March 15, 2010)

**Firms Suspended for Failing to Pay Arbitration Awards Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Empire Securities Corporation**  
El Segundo, California  
(March 22, 2010 – March 29, 2010)

**McGinn, Smith & Co., Inc.**  
Albany, New York  
(March 22, 2010)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**Richard Lawrence Coskey**  
Bloomfield Hills, Michigan  
(March 24, 2010)

**Harold Dean Malicoat Jr.**  
Evansville, Indiana  
(March 24, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**Michael S. Berteletti**  
Staten Island, New York  
(March 8, 2010)

**Terry Joe Kennedy**  
Las Vegas, Nevada  
(March 4, 2010)

**Anthony Paul Mares**  
Albuquerque, New Mexico  
(March 12, 2010)

**Christina Marie Morales**  
Houston, Texas  
(March 22, 2010)

**Sherman Jason Niamehr**  
Rego Park, New York  
(March 22, 2010)

**Gregg Thomas Rennie**  
Squantum, Massachusetts  
(March 1, 2010)

**Pamela J. Sullivan**  
Signal Hill, California  
(March 5, 2010)

**Individuals Suspended Pursuant to  
FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Salvador Gomez Alcala**  
Avondale, Arizona  
(March 18, 2010)

**John Mark Anderson**  
Sun Prairie, Wisconsin  
(March 22, 2010)

**Douglas John Costabile**  
Babylon, New York  
(March 22, 2010)

**Charles Donald Harkins**  
Oakland Gardens, New York  
(March 1, 2010)

**Kevin Paulin**  
Bristol, Connecticut  
(March 18, 2010)

**Jabari Wilfred Ragas**  
New Orleans, Louisiana  
(March 22, 2010)

**Corey Raymond Stingley**  
St. Petersburg, Florida  
(March 8, 2010)

**Jacob Malachi Walls**  
Brooklyn, New York  
(March 22, 2010)

**Individuals Suspended for Failure to  
Comply with an Arbitration Award or  
Settlement Agreement Pursuant to FINRA  
Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Daniel William Aho**  
Orange, California  
(March 26, 2010)

**Walter Lee Coulter II**  
Riverside, California  
(March 26, 2010)

**Chad Austin Curtis**  
Fort Lauderdale, Florida  
(February 6, 2008 – March 4, 2010)

**Wesley Alexander Fracker**  
Jackson, Mississippi  
(March 11, 2010)

**Ronald Michael George**  
Thonotosassa, Florida  
(March 15, 2010)

**Stephen Michael Liotta**  
Selden, New York  
(March 26, 2010)

**David Johnathan Mahood**  
Cliffside Park, New Jersey  
(March 29, 2010)

**Richard Aaron Paul**  
Lakeland, Tennessee  
(March 26, 2010)

**Charles Ray Jr.**  
Palm Desert, California  
(March 11, 2010)

**Yachtz Radcliff Winch**  
New York, New York  
(March 19, 2010)

### **FINRA's National Adjudicatory Council Dismisses Charges of Alleged Violations by Senior Personnel of Knight Securities**

The National Adjudicatory Council (NAC) of the Financial Industry Regulatory Authority (FINRA) issued a ruling dismissing charges that Kenneth Pasternak, former CEO of Knight Securities, L.P., and John Leighton, former head of the firm's Institutional Sales Desk, were responsible for supervisory failures in connection with alleged fraudulent sales to institutional customers.

The ruling by the NAC—FINRA's appellate body—reverses an earlier FINRA Hearing Panel decision that found that Pasternak and Leighton had violated FINRA's supervision rule in their roles as supervisors of Knight Securities' leading institutional sales trader. The Hearing Panel's decision fined each respondent \$100,000, barred John Leighton in all supervisory capacities and suspended Pasternak in all supervisory capacities for two years. Those sanctions are vacated by the NAC's ruling.

The NAC concluded that FINRA failed to satisfy its burden of proof concerning allegations set forth in a March 4, 2005, complaint, which alleged that Pasternak and Leighton did not take reasonable steps to ensure that Knight Securities' leading institutional sales trader adhered to "industry standards" when executing orders for institutional customers. The NAC found that FINRA staff did not establish that the sales trader contravened any market or regulatory standards when providing execution services to institutional customers. The NAC further found that the preponderance of the evidence did not support the allegation that Pasternak and Leighton failed to supervise reasonably the sales trader's practices. Finally, the NAC decided that the evidence did not support allegations that Pasternak failed to respond appropriately to certain "red flags" that were raised concerning the manner in which the leading institutional sales trader executed institutional customer orders.

### **Dallas-based Provident Asset Management Expelled for Marketing Fraudulent Private Placements Offered by Affiliate in Massive Ponzi Scheme**

#### **FINRA Continues Nationwide Initiative Investigating Broker-Dealers Engaged in Private Placements**

The Financial Industry Regulatory Authority (FINRA) announced that it has expelled Provident Asset Management, LLC, a Dallas-based broker-dealer, for marketing a series of fraudulent private placements offered by its affiliate, Provident Royalties, LLC, in a massive Ponzi scheme.

The action announced today is the first produced by a FINRA initiative involving active examinations and investigations of broker-dealers involved in retail sales of private placement interests, as well as broker-dealers affiliated with private placement issuers. FINRA is looking at firms' compliance with suitability, supervision and advertising rules, as well as potential instances of fraud. The initiative was undertaken in response to an increase in investor complaints involving private placements and Securities and Exchange Commission actions halting sales of certain private placement offerings.



Provident Asset Management misrepresented to investors that the funds raised through the offerings would be used to purchase interests in the oil and gas business, including exploration activity and the acquisition of real estate, oil and gas leases and mineral rights. In fact, investors' funds were commingled and used by an affiliated issuer to make dividend and principal payments to other investors. In addition, the firm acted as the agent in an oil and gas private placement offering but failed to establish an escrow account for investors' funds during the contingency period of the offering.

"Provident facilitated the sale of a series of fraudulent private placements that were marketed to unsuspecting customers as income-producing investments, when it was simply using new investors' money to pay previous investors the promised dividends—a classic Ponzi scheme," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "While the private placement market is an important source of capital for many companies, the market is also one in which investors have been subject to unsuitable or abusive sales tactics."

FINRA found that from September 2006 through January 2009, Provident Asset Management marketed and sold preferred stock and limited partnership interests in a series of 23 private placements offered by Provident Royalties, LLC. Provident Asset Management's only business line was acting as the wholesaling broker-dealer for the Provident Royalties' offerings, which were sold to customers through more than 50 retail broker-dealers nationwide, raising over \$480 million through approximately 7,700 individual investments made by thousands of investors.

FINRA's broader investigation into broker-dealers that sold the Provident and other troubled private placement offerings is continuing.

The Provident Royalties private placement memoranda promised investors returns of up to 18 percent per year and said the funds raised through each offering would be used to purchase interests in all aspects of the oil and gas business.

In an effort to market the Provident Royalties offerings, the firm falsely represented that: investors' funds would be used by each individual Provident Royalties offering to purchase interests in the oil and gas business for that offering; the subscription proceeds of each offering would be deposited into an account for that offering and become assets for that offering; approximately 86 percent of the subscription proceeds would be allocated to acquiring interests in the oil and gas business; and, dividends paid to investors would be derived from revenues, primarily from the sale of oil and gas assets.

In fact, Provident Royalties deposited the investors' funds from each offering into a separate bank account. Then, in the fashion of a classic Ponzi scheme, the money was either moved freely from one account to another or was swept into one of Provident Royalties' operating accounts and used to pay dividends and principal to earlier investors.

On July 2, 2009, the SEC filed a civil injunctive action in the Northern District of Texas naming Provident Asset Management, Provident Royalties and others, seeking a temporary restraining order and an emergency asset freeze and appointment of a federal equity receiver to take control of the entities and preserve their assets for the benefit of the defrauded investors.

In concluding this settlement, Provident Asset Management neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

### **Seattle Broker Rhonda Breard Barred for Defrauding Clients, Converting Customer Funds to Personal Use**

#### **FINRA Finds Scheme Cost Breard's Clients At Least \$8 Million**

The Financial Industry Regulatory Authority (FINRA) announced that it has permanently barred Kirkland, WA, broker Rhonda Lee Breard from the securities industry for defrauding at least 38 clients of at least \$8 million through a scheme that involved converting client funds to her personal use while sending falsified account statements to her customers.

"FINRA will continue to use its resources and authority to swiftly remove bad brokers from the securities industry, especially those who steal from their clients," said James S. Shorris, FINRA Executive Vice President and Executive Director of Enforcement.

As part of the scheme— which she carried out from at least 2006 until February 2010— Breard persuaded her clients to liquidate their existing investments for the purpose of purchasing different investments, including mutual funds and annuities. Breard was registered as a broker with ING Financial Partners and also had her own investment advisory firm, Breard & Associates. At her request, the clients made checks payable to her investment advisory firm. She deposited those checks in a bank account that she controlled and, instead of purchasing other investments for her clients, she diverted their funds to her personal use.

To conceal her misconduct, Breard prepared and sent to the clients false account statements purporting to be from her firm, another firm and an insurance company. Those statements falsely indicated that the clients owned securities and other investments.

In concluding this settlement, Breard neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

Breard is facing criminal charges for the same misconduct in U.S. District Court in Seattle. Federal authorities there are attempting to identify Breard's assets in order to recover funds for the affected clients.